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SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 9th MEETING

Held at Headquarters, New York,
on Friday, 26 April 1985, at 3 p.m.

Chairman: Mr. KORDS (German Democratic Republic)

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The meeting was called to order at 3.25 p.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9 (continued)

Report of Bulgaria (E/1984/7/Add.18)

1. At the invitation of the Chairman, Mr. Mratchkov (Bulgaria) took a place at the table.

2. Mr. MRATCHKOV (Bulgaria) said that Bulgaria had been among the first States Members of the United Nations to ratify the International Covenant on Economic, Social and Cultural Rights. That had been done in 1970, six years before the entry into force of the Covenant, as a concrete manifestation of Bulgaria's resolute support for the role of the United Nations in promoting and protecting human rights.

3. With respect to article 6 of the Covenant, Bulgaria's concern for the protection of the right to work had been at the centre of its national economic and social policy during the period under review. The positive results achieved generally found their expression in the increase in the number of persons employed, which included nearly the entire economically active population. In other words, full employment had been achieved in Bulgaria and unemployment as a social phenomenon had been eliminated. On the other hand, because of some unfavourable demographic trends in recent years, the Government had undertaken certain measures aimed at ensuring a better use of available human resources.

4. The main problems encountered in implementing article 6 of the Covenant consisted of utilization of the labour potential according to the qualification acquired, and the domestic legislation adopted in that regard had had positive results. Another problem concerned the current state of workers' vocational qualifications. It was true that Bulgaria had achieved notable success in that area, especially in view of the legacy left by political régimes that had existed before the Socialist revolution in 1944. In order to solve that problem, a series of courses had been organized by enterprises and ministries, attended by a growing number of workers, employees and cadres.

5. With regard to article 7 on the right to just and favourable conditions of work, salaries had been raised in several fields and supplementary payments had been granted. In addition, essential modifications had been made with respect to promotion possibilities for workers and the salaries of highly qualified staff had been increased considerably.

6. With respect to article 8 on trade union rights, a new labour code was being prepared for the protection of workers, their rights and legitimate interests. The number of workers who were members of trade unions had increased measurably and trade-union representatives participated in the decision-making process.

(Mr. Mratchkov, Bulgaria)

7. With regard to article 9, changes had taken place recently with respect to the right to social security. Its management had been entrusted to a committee on workers and social affairs within the Council of Ministers. That body had been established in 1983 in pursuance of the ideas adopted by the Party for the preparation of a new labour code. As a result, trade unions no longer managed social security in cases of temporary incapacity of workers. Nevertheless, they made important contributions and participated in studying problems concerning the development of social security. Other changes dealt with family allowances, which had increased markedly, retirement pensions and survivor and disability benefits. In addition, maternity leave had been increased and the question of paternity leave was being studied.

8. While Bulgaria had made much progress with respect to the implementation of articles 6 to 9 of the Covenant, it was fully aware that much remained to be done, and legislation and social policies were being developed continuously.

9. Mrs. BUTRAGUEÑO (Spain) asked whether the expansion of work at home for mothers who had children under six years of age (para. 8 (a)) was intended to ensure that the training of the mother was not wasted or to ensure that children were well cared for. She also wished to know why in such a situation the worker would have a new employer. Secondly, she wished to know whether the trade unions were open to all workers. It appeared that formerly only labourers had been trade union members. Thirdly, Bulgaria had adopted an enlightened measure by allowing, in the event of the serious illness or death of a mother, the remainder of maternity leave to be used by and cash compensation to be paid to the father or another relative in the direct line (para. 42 (b)). Fourthly, she wished to have more information on the job classification of the manual workers referred to in paragraph 30. In other words, she wondered whether the Single Wage-Rate Scale covered all manual workers or only specific classes.

10. With respect to paragraph 43 (b), she found it strange that women retired at a younger age than men in view of the fact that women lived longer. She wondered why in several countries the assumption seemed to be that men were the stronger sex. With respect to paragraph 43 (d), she did not understand how there could be any withholding from a minimum pension. Finally, with respect to family assistance, it seemed that Bulgaria paid more generous benefits to larger families and she wondered whether assistance was given to families that practised family planning and responsible parenthood. In other words, was the large family being portrayed as an ideal?

11. Mr. TEXIER (France) said it was unfortunate that the report had been prepared at a time when the country's labour legislation had been in process of change. He would welcome additional information on the contemplated changes.

12. With reference to paragraph 11, dealing with special measures to assist the disabled, he would like to know how large the disabled population was. In connection with paragraph 19, what were the proportions of the permanently employed who were working full time and part time? The Western countries had substantial unemployment problems and he was therefore interested to know what steps other countries had taken with a view to achieving full employment.

(Mr. Texier, France)

13. He would welcome further information about the scale of wages in Bulgaria, and in particular about the degree of differentiation between wages at the top and bottom of the scale. It was clear that Bulgaria had made a considerable effort to ensure safe and healthy working conditions throughout the country. In that connection, he would like to know what financial resources were available for that purpose. The goal appeared to be the prevention of industrial accidents. Statistics would be of interest.

14. He welcomed the idea of paternity leave, which was becoming a more frequent feature in many countries and represented a further step towards equality between men and women.

15. Mr. HOPPE (German Democratic Republic) welcomed the report in so far as most of the developments which it covered were similar to conditions in his own country. The report stressed developments since the date of Bulgaria's initial report and demonstrated the country's continuing intention to abide by the provisions of the Covenant.

16. He would welcome more information regarding the most important reforms which were contemplated in Bulgarian labour legislation and regarding the features of progressive foreign and international experience which, according to paragraph 4, would be drawn upon in drafting the new labour code. On the issue of the further training of personnel, referred to in paragraph 15, he would like to know whether provision had been made for the participation of women in the programmes contemplated under resolution No. 42 of the Council of Ministers of 24 July 1980.

17. In recent years there had been many changes in the political, social and economic life of Bulgaria. The country co-operated closely with CMEA and had developed new industries. As a result, it was becoming necessary for workers to change their work places and he wondered how such changes would be implemented within the terms of the Covenant.

18. Mr. IIYAMA (Japan) said that the report continued Bulgaria's dialogue with the Working Group in a satisfactory manner and had been drawn up in complete conformity with the guidelines.

19. In view of the forthcoming radical reform of labour legislation, he would like to know in what fields and to what extent progressive foreign and international experience would be applied. With reference to paragraph 8, he would welcome information on the kind of work which would be available for mothers who had children under six years of age and who worked at home. How would their salaries compare with those of other workers? Paragraph 11 referred to the creation of special enterprises or special workshops and productive units for persons with a diminished capacity for work. He requested more information on that type of activity and asked whether the disabled were employed at the same work place as others.

(Mr. Iiyama, Japan)

20. In connection with article 9 of the Covenant, there was a reference in paragraph 20 to increases which had been granted in the remuneration of manual and non-manual workers under resolution No. 50 of 10 November 1979. Had there been any subsequent increases and, if so, how often? Were those real or nominal increases and how had the rate of inflation been calculated over the period?

21. Bulgaria had observed exemplary punctuality in the submission of its reports. Did the two-year reporting cycle impose a burden on the Government?

22. Mr. BEN-HAMIDA (Tunisia) welcomed the report. Bulgaria had been one of the first countries to ratify the Covenant in 1970 thus testifying to the Government's will to abide by its international obligations. The report provided a considerable amount of additional information to supplement the initial report, particularly in the field of social legislation.

23. In connection with the shortage of manpower to which the representative of Bulgaria had referred in his introduction, he would like to know whether there were any foreign workers in Bulgaria and, if so, in what sectors they were employed. Under technical co-operation agreements, Bulgaria had sent a number of technical experts to work in other countries. Was there reciprocity?

24. He would welcome further clarification of paragraph 10. As it stood, the paragraph seemed to imply that the issue related to the need for workers to reconcile themselves to changed fields of work rather than to actual unemployment.

25. Bulgaria's social legislation had so far been completely consistent with the Covenant and it would therefore be of interest to learn the direction proposed for the future. He had noted that a decision had been taken in 1982 to reform social legislation. It would be interesting to know what developments had taken place during the intervening three years, what the legislative policy of the Government was and the extent to which it would take advantage of progressive international experience.

26. Mr. BENDIX (Denmark) asked whether the sitation regarding working hours in the agricultural sector had remained static in recent years and whether the agricultural labour force still worked 48 hours a week. In particular, would one of the proposed reforms lead to some improvement of the situation of agricultural workers? The discrepancies between the working week of 35 hours in very modern factories and the 48 hours worked in the agricultural sector was very marked. Was it the Government's policy to persuade more people to migrate to the towns where working hours were shorter?

27. Mr. AIDARA (Senegal) said that he would welcome additional information regarding the conditions for women who worked at home. With reference to paragraph 8 (a), it would seem that mothers with children under six years of age working at home did not lose their original work contract and could resume their previous employment at any time. During their period of absence at home, they were apparently replaced by another person. What happened to the replacement when the woman returned to work?

(Mr. Aidara, Senegal)

28. He would also like to know how Bulgaria envisaged implementing paragraph 8 (d) in practice. He asked whether the right to strike was recognized in Bulgaria and, if so, how was it exercised.

29. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that the report gave a concise picture of the way Bulgaria was developing its policy to comply with the provisions of the Covenant. In the short period since its initial report had been submitted, the Bulgarian Government had devoted much attention to the implementation of basic economic, social and cultural rights, as could be seen from the new legislation it had adopted. It was very important to note that socialist Bulgaria did not simply include the rights concerned in its Constitution but took measures to develop its legislation. That approach was in line with the spirit of the Covenant and should be emulated by other States.

30. On a more general note, he said that a number of different systems were represented in the Working Group. However, when the experts wished to discover the real situation in another State, they must make an effort to understand the structure of that society. For example, it should be clear that partial employment was not a form of unemployment, since there was not a country in the world that included the partially employed in its unemployment statistics or accorded them unemployment benefits. The experts' questions should be based on common concepts. Similarly, while he understood that for certain countries the dollar was important, it was wrong to attempt to relate every currency to the dollar in order to establish its worth. The value of a currency should be seen in terms of such factors as the cost of education, housing and medical care in the country concerned. It was impossible to make comparisons to the dollar, and such oversimplifications should not be tolerated in the Working Group.

31. The expert from Spain had spoken of discrimination in the retirement age for women. Although women did live longer than men, their responsibilities were heavy, especially when they both worked and raised a family. An earlier retirement age should be seen as a social achievement for women rather than as discrimination. The possibility of part-time work for retirees was a progressive move, especially as the lack of work following retirement represented a major upheaval for some people.

32. He stressed the attention paid by Bulgaria to the right to work, which was reflected in its labour legislation. In the International Youth Year, it was worth noting the decisions of the Council of Ministers concerning the improvement of conditions for the training and development of young people (para. 8 (c)). Bulgaria's experience in developing vocational training for young people was a very important factor in eliminating unemployment and should be studied by those countries where there was a high rate of unemployment. He also praised the constant rise in the welfare and wage levels of workers, which was the result of the efforts of the Bulgarian State and Bulgarian society.

33. Some of the questions raised concerning the role of trade unions appeared to reflect the experts own national experience. If the Working Group wished to

(Mr. Yakovlev, USSR)

understand the real situation, it should carefully consider the practice and social system of the country convened. In some countries, the only rights that a worker had were those decided by his employer. Paragraphs 32 to 41 of the report showed that, in Bulgaria, the full rights of the trade unions were protected. In some countries, an employer could dismiss an entire work force even if they went on strike, while in Bulgaria no worker could be dismissed without the consent of the trade unions. Their role was to protect the status of workers and to ensure compliance with the labour legislation. Paragraph 38 of the report showed how trade unions monitored the observance of the Labour Code and reflected a more progressive approach to labour questions.

34. The legislative amendment enabling compensation provided for maternity and child care to be paid to a relative other than the mother (para. 42 (b)) was an important and progressive measure that represented a further step towards solving the problem of maternal and child care.

35. Mr. BENDIX (Denmark), speaking with reference to the comments made by the expert from the Soviet Union, said that freedom of expression was respected within the Working Group. Experts could therefore ask about part-time unemployment if they felt it was relevant and about the leva, which was not a convertible or well-known currency, whatever it might be compared with. He was sure that the representative of Bulgaria was perfectly capable of answering by himself the questions addressed to him.

36. Mr. TEXIER (France) said that he had never complained when the expert from the Soviet Union had spoken about Western countries and had raised questions concerning unemployment. Experts had every right to ask the questions they wished to ask in the way they wished to ask them.

37. Mrs. BUTRAGUEÑO (Spain) said that her remark about the earlier retirement age for women was a general comment, which also applied to Western countries. The idea that women must bear the brunt of raising a family and therefore had to retire at an earlier age than men was an outdated one. Men should help women to raise children and both should retire at the same age. Her comment was not directed against Bulgaria but against any form of discrimination. In general, she had praised the report, including the idea of part-time work for retirees.

38. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that those who claimed the right of expression for themselves should not deny it to others. He had simply expressed his views on certain matters. The experts should endeavour to listen to and understand each other, and not distort their views. Similarly, they should not confuse part-time employment and unemployment. He supported free expression and acted in that spirit.

39. Mr. ALBORNOZ (Ecuador) said that he would like to have more details about the qualifications required for managerial staff, the incentives offered to increase productivity, and the operation of agro-industrial companies. It would also be interesting to compare the cost of living and the value of the wage scales and to

(Mr. Albornoz, Ecuador)

know whether there was any margin for saving. He would also like to know the extent to which the right to strike was exercised and whether pensions were reviewed on an annual basis to maintain the income of retirees.

40. Mr. SERVAIS (International Labour Organisation) drew attention to the seventh report by the ILO Committee of Experts on the Application of Conventions and Recommendations on progress in achieving observance of the provisions of the International Covenant on Economic, Social and Cultural Rights (E/1985/63). With regard to article 6 of the Covenant, the Committee of Experts had requested additional information from Bulgaria on the application of the 1930 Convention concerning Forced or Compulsory Labour, with regard to the freedom of members of collective farms to leave those farms and the possibility of substituting special labour services in construction or agriculture for military service.

41. With regard to article 8 of the Covenant, the Committee had requested the Bulgarian Government, in the context of the 1948 Convention concerning the Freedom of Association and Protection of the Right to Organise, to change certain provisions of national legislation to enable workers legally to establish, if they so desired, organizations independent of the existing trade unions.

42. Mr. Mratchkov (Bulgaria) withdrew.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 13 TO 15 (continued)

Report of Portugal (E/1985/3/Add.27/Rev.1) (continued)

43. At the invitation of the Chairman, Miss Franco (Portugal) took a place at the table.

44. Miss FRANCO (Portugal) said that the expert from the German Democratic Republic had asked whether the Covenant was published in Portuguese and how the people were informed of their rights under articles 13 to 15. Under the Portuguese Constitution, publication in Portuguese was necessary for the entry into force of any international instrument. Services were provided throughout Portugal to those who wished to avail themselves of or inform themselves about the law. All professional associations and trade unions in Portugal had the right to broadcasting time on radio and television.

45. The expert from Tunisia had asked whether there was a specific organism to monitor the constitutionality of laws, what its competence was and whether a judge could decide that a law was unconstitutional. A constitutional court existed to judge the constitutionality of any act to be promulgated; if the act was found to be unconstitutional, it was sent back to the organ that had approved it. Ordinary courts had the right not to apply unconstitutional provisions or principles in matters brought before them. In addition, their decisions could be appealed in the Constitutional Court on grounds of unconstitutionality. Articles 278 et seq. of

(Miss Franco, Portugal)

the Portuguese Constitution contained detailed provisions on the functioning of the Constitutional Court.

46. Questions had been asked by the experts of Senegal, Tunisia and the USSR about attitudes and conditions giving rise to discrimination against women, about the main features of the programme mentioned in paragraph 18 of the report to change ways of thinking and male and female stereotyping and about measures to encourage girls to select a more technical education. The attitudes and conditions referred to in paragraph 15 of the report resulted from centuries of discrimination. Legislation could obviously not change matters overnight and the Commission on the Status of Women had concentrated on attacking sexual stereotypes at the early stage. It had therefore involved the Ministry of Education in a programme of teacher-training to make teachers aware of the need not to transmit sexual stereotypes. It had also encouraged the establishment of joint classes for girls and boys in what had previously been considered single-sex subjects, such as cooking or carpentry.

47. In connection with paragraph 4 (b) of the report, the expert from the USSR had asked whether provision existed for the prosecution of racist organizations. Article 189, paragraph 3, of the 1982 Penal Code provided that those who created or participated in a racist organization would be liable to a prison sentence ranging from two to eight years.

48. In answer to a query from the expert from Denmark, she said that the education statistics given in paragraph 16 of the report were for the year 1981. For purposes of comparison, she quoted the statistics for 1970.

49. Turning to article 13, she said that the experts from the German Democratic Republic and the USSR had raised questions concerning paragraphs 64 and 65 of the report regarding the numbers of children attending pre-school, what percentage of the population they represented and whether sufficient nursery schools existed in Portugal for children from the ages of 3 to 8. Pre-school was optional for children between the ages of 3 and 6; the latest figure available, for 1978, indicated that 15 per cent of the children in that age bracket attended pre-school. Because of a lack of data, it was not possible for her to say whether Portugal has sufficient schools to ensure schooling from the ages of 3 to 6. However, the Minister of Education had recently designated pre-schooling as an area for priority action. According to the data available, children in the 0 to 9-year age group accounted for 15 per cent of the total population. In reply to the expert from the German Democratic Republic, she said that the words "Educational methods used in the context of pre-school education are flexible", used in paragraph 67 of the report, meant that teachers in nursery schools were supposed to adapt their teaching to local conditions. The State only monitored the sanitary and security conditions of the premises and the teachers' qualifications. To answer a question put by the expert from the USSR, she said that 6.2 per cent of children of compulsory school-age were attending private schools. He had also asked in what European countries Portugal had schools and which countries recognized Portuguese diplomas. There were Portuguese schools in Belgium, Denmark,

(Miss Franco, Portugal)

the Federal Republic of Germany, France, Luxembourg, the Netherlands, Switzerland and the United Kingdom, with a total of 88,160 students and 886 teachers. Those teachers mainly supplemented the local curricula in subjects such as the Portuguese language and Portuguese culture.

50. The expert from Ecuador had referred to the recognition of diplomas. That was usually regulated by bilateral agreements. However, in Western Europe arrangements for such recognition were covered by a Council of Europe convention to which Portugal was a party. In Portugal, at the university level, application was made directly to the university from which recognition of a diploma was sought. It was either accorded forthwith or the holder of the diploma was required to pass a small examination in order to obtain full equivalence.

51. The expert from France had inquired how many stateless persons and refugees there were in Portugal and what her country was doing for immigrant workers. The statistics for 1984 indicated that there were 158 stateless persons and 647 refugees in Portugal. Migrant workers came essentially from the Portuguese-speaking African countries and were covered by specific bilateral agreements with each of the five countries concerned. In accordance with article 15, paragraph 3, of the Portuguese Constitution, citizens of those Portuguese-speaking countries could be granted rights not conferred on foreigners in general, with certain exceptions relating to the holding of State and regional office and employment in the armed forces and the diplomatic service.

52. The experts from Denmark and the USSR had expressed surprise regarding the high percentage (about 30 per cent) of children not receiving basic education: the statistics did not fully reflect the situation. In 1980, enrolment in primary education (the first four years of compulsory education) had been 95.5 per cent. Paragraph 94 referred to basic education, which was divided into two periods: four years of primary education, corresponding to the previous duration of compulsory education, and an additional two-year period of compulsory secondary education. The problem started in the second period when, instead of embarking on the further two years of compulsory secondary education, children went to work. Thus the overall rate for basic education was reduced to 72.7 per cent in 1980. The reasons were set out in paragraphs 99 to 102. They included the fear that schooling might cost too much, remarked on by the expert from Denmark. In spite of the governmental campaign, ingrained habits had proved very difficult to change. Although schooling was free and parents received specific schooling allowances and other benefits, school clothes and materials were still viewed as being unaffordable and, in the rural areas, parents were reluctant to do without an extra pair of hands on the farm. In an attempt to solve the problem of truancy, parents who did not send their children to school received no allowances, and a school diploma was required for participation in a number of activities, including sports competitions. She wished to make a correction to the introductory part of paragraph 106 of the report: the date mentioned should be 1967.

53. The expert from Denmark had also inquired why people should pay for certificates attesting to the completion of a single phase of schooling (para. 95 (f)). She explained that it was in order to discourage the interruption

(Miss Franco, Portugal)

of compulsory education that only people who had completed six years of schooling were entitled to a free diploma. In reply to his query relating to the study referred to in paragraph 108 of the report, she said that the initial conclusions of the study had been that, before any further measures were taken, the existing legislation should be consolidated and its weaknesses evaluated.

54. The expert from the USSR had asked about the percentage of children in the twelfth year of school. The data were presented in table 5. The figures were approximately 500 in the pre-vocational programme and 50,000 in the academic programme. As to whether the need to pay for education prevented the less affluent from attending school, she said that education was paid for only at the post-secondary level and that the amount was purely symbolic.

55. The expert from Spain had raised the matter of post-secondary vocational training. The answer could be found in paragraphs 212 (b) and 217. She drew particular attention to the first sentence of paragraph 220.

56. The expert from the USSR had requested information on the percentage of workers and children of workers attending universities and institutes of higher education. Such data were not processed by the universities and were therefore not available but she could assure him that there was no discrimination on the basis of the type of secondary education received. University evening classes had been available for workers since 1975.

57. With reference to paragraphs 155 to 157 of the report, the expert from Ecuador had requested details of requirements for admission to higher education. She regretted that she could give no further details at the current time, but more information might be included in a later report. With regard to table 1 in paragraph 233, the expert from the Soviet Union had inquired why fewer new rooms had been made available for pre-school education in 1982/83 than in 1981/82. She was not in a position to explain the reason, but wished to inform him that the number of rooms built in 1983/84 had increased to 431 and that a further 342 rooms would be made available in 1984/85. He had also requested numbers for students from private schools entering universities. Again, universities did not process such data but there was no discrimination because of the type of secondary schooling.

58. With regard to paragraph 234, the expert from Ecuador had queried whether 11 per cent of the national budget was enough to cover all the educational measures and reforms envisaged. She could not assure him that that was a sufficient percentage, but stressed that education was second only to the financing of the central administration among government spending priorities. In reply to the query of the expert from the USSR, she said that grants for higher education were fixed periodically in the same manner as the minimum wage; inflation was taken into consideration in deciding the family income requirements for the allocation of grants.

(Miss Franco, Portugal)

59. Turning to article 15 of the Covenant, she said, in reply to a question from the expert from Ecuador regarding the protection of Portugal's cultural heritage, that it was not yet possible to evaluate the effects of the Act referred to in paragraph 349 of the report; she hoped that would be possible to do so in a later report. With regard to his question concerning the cultural and educational role of television and radio, she felt that that was quite fully explained in paragraphs 383 and 384. The expert from the Soviet Union had asked what was meant in paragraph 419 by "abuses resulting from the use of computers". Article 35 of the Portuguese Constitution stated that data processing should not be used for information concerning a person's philosophical or political beliefs, party or trade union affiliations, religious faith or private life, except in the case of non-identifiable data for statistical purposes. The expert from the German Democratic Republic had asked about cultural agreements with Portuguese-speaking African countries to help them overcome illiteracy and encourage the use of the Portuguese language. There were nearly 30 agreements with those countries, encompassing such areas as cultural and university co-operation, economic co-operation and manpower. With regard to paragraph 454, the expert from Spain had asked for details regarding the research teams. She explained that they worked in universities or at the National Institute of Scientific Research and that their status was equivalent to that of a university lecturer. They did not have to lecture but had to publish the results of their research regularly.

The meeting rose at 6.10 p.m.